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JOHN F. LUNDY

UNITED STATES DISTRICT COURT

CALIFORNIA NORTHERN DISTRICT (SAN FRANCISCO)

JOHN F. LUNDY) Case No.: 3:15-cv-05676-JST
Plaintiff,)
v.)
SELENE FINANCE, LP; MTC FINANCIAL)
d/b/a TRUSTEE CORPS; JPMORGAN)
CHASE BANK, N.A.; BANK OF AMERICA,)
N.A.; WILMINGTON SAVINGS FUND)
SOCIETY, FSB d/b/a CHRISTIANA TRUST,)
as trustee for BCAT 2014-12TT and DOES 1-)
100 inclusive,)
Defendants.)

TO THE COURT, DEFENDANTS AND THEIR ATTORNEY OF RECORD:

INTRODUCTION

Plaintiff, by and through his attorney, hereby submit this Opposition to Defendants Selene Finance LP and Wilmington Savings Fund Society, FSB, doing Business as Christiana Trust, not in its individual capacity, but solely as trustee for BCAT.2014-12TT (collectively, "Defendants") Request for Judicial Notice ("RJN") in support of its accompanying motion to Expunge Lis Pendens.

MEMORANDUM OF POINTS AND AUTHORITIES

ARGUMENT

Exhibits 1 through 13 to the RJD are land records recorded in the Marin Recorder's Office related to the Property which is the subject of the instant lawsuit.

California law is well-settled that “[t]aking judicial notice of a document is not the same as accepting the truth of its contents or accepting a particular interpretation of its meaning.” *Joslin v. H.A.S. Ins. Brokerage* (1986) 184 Cal.App.3d 369, 374. While courts take judicial notice of public records, they do not take notice of the truth of matters stated therein. *Love v. Wolf* (1964) 226 Cal.App.2d 378, 403. “When judicial notice is taken of a document . . . the truthfulness and proper interpretation of the document are disputable.” *StorMedia, Inc. v. Superior Court* (1999) 20 Cal.4th 449, 457, fn. 9.

CONCLUSION

For the reasons stated above, Plaintiff does not object to judicial notice of the proposition that the exhibits to the RJN were in fact recorded as public records, but does object to the Court's accepting as true Defendant's interpretation of those documents, or the claim that legal findings may be drawn from the fact of such recording.

Dated: February 4, 2016

LAW OFFICES OF MARK W. LAPHAM

By: //s/Mark W. Lapham
Mark W. Lapham
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JOHN E. LUNDY